

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:06-cr-239-02

v.

HONORABLE PAUL L. MALONEY

KENNETH JOHNSON,

Defendant.

/

MEMORANDUM OPINION AND ORDER

Defendant Kenneth Johnson has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

The defendant, however, was sentenced to 80 months imprisonment on November 23, 2011, after remand from the Sixth Circuit Court of Appeals. A reduction was incorporated into his 80-month sentence as his sentencing was held after Amendment 750 became effective. Therefore, the defendant has already received benefit of the retroactive amendment.

Accordingly,

IT IS HEREBY ORDERED that Defendant Kenneth Johnson's motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 125) is **DENIED**.

Date: August 10, 2012

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge